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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,561	06/24/2003	Anthony Wong	20341-72037	1684

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EXAMINER
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JAGAN, MIRELLYS

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/602,561	Applicant(s) WONG ET AL.	
	Examiner Mirellys Jagan	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2004.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-15, 17-20, 22, 24, 26, 27, 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 1, 16, 21 and 23 is/are rejected.
- 7) ☒ Claim(s) 25 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 1, 25, and 28 are objected to because of the following informalities:

In claim 1, it is not clear what orientation is meant by the term “vertical” axis in line 6.

From the figures, it appears that the thermometer portion slides along an axis that extends longitudinally along the cover portion. However, it is not clear why this direction is called “vertical” in the claim.

In claim 25, it is not clear how the battery pack ‘locates’ the carrier between the probe and battery pack, i.e., itself.

In claim 28, it is not clear if “side opening” is referring to a side of the inner wall that opens into the slots, or an opening located at the sides of the inner wall. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 16 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,329,685 to Baker.

Referring to claim 16, Baker discloses a thermometer assembly comprising:

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a thermometer portion including a probe (10) and a housing (18) coupled to the probe;  
a cover portion (34) coupled to the thermometer portion; and  
a means (30/40) for mounting the thermometer portion to the cover portion (34) for sliding movement of the thermometer portion relative to the cover portion between a locked position (figure 2) to prevent the thermometer portion from pivoting relative to the cover portion, and an unlocked position permitting the thermometer portion to pivot relative to the cover portion about a pivot axis to assume a use position (figure 1) wherein the probe (10) is removed from a stowed position inside the cover portion.

Referring to claim 23, Baker discloses a thermometer assembly comprising:

a thermometer portion including a probe (10) and a housing (18) coupled to the probe;  
a cover portion (34) pivotably, fixedly, and slidably coupled to the thermometer portion, the cover portion defining a cavity formed to receive at least a portion of the thermometer portion in a use position (figure 2) and a stowed position (figure 1) of the thermometer portion, and defining a cut-out (in 42) formed to receive the probe (10) of the thermometer portion in the stowed position (figure 2).

4. Claim 16 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent 61296226 to Abe et al [hereinafter Abe].

Abe discloses a thermometer assembly comprising:

a thermometer portion (2) including a probe and a housing coupled to the probe;  
a cover portion (3) coupled to the portion (2); and  
means (cut-out in 3) for mounting the portion (2) to the cover portion (3) for sliding movement of the thermometer portion (2) relative to the cover portion (3) (2 slides into 3)

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between a locked position (figure 6b) that prevents the thermometer portion (2) from pivoting relative to the cover portion (3), and an unlocked position (figure 6c) that permits the thermometer portion (2) to pivot relative to the cover portion (3) about a pivot axis (2 is flipped over about an imaginary pivot axis from figure 6c to figure 6d) to assume a use position (figure 6e) wherein the probe is removed from a stowed position inside the cover portion (3);

wherein the cover portion (3) includes a front and rear wall integrally coupled together and formed to define the cut-out, the thermometer portion (2) being pivotally movable relative to the cover portion (3) between a use position (e.g., figure 6e) where the probe of the thermometer portion extends away from the cover portion (3), and a stowed position where the probe of the thermometer portion is received within the cut-out (e.g., figure 6b).

5. Claims 16 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 343,678 to Tatum.

Tatum discloses a thermometer assembly comprising:

a thermometer portion (A) including a probe and a housing coupled to the probe (a mercury thermometer [not shown] having a bulb [probe] and stem [housing] is included in the thermometer portion (A));

a cover portion (B) coupled to the thermometer portion (A); and

means (d, b) for mounting the thermometer portion (A) to the cover portion (B) for sliding movement of the thermometer portion (A) relative to the cover portion (B) between a locked position (figure 1) that prevents the thermometer portion (A) from pivoting relative to the cover portion (B), and an unlocked position (figure 2) that permits the thermometer portion (A)

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to pivot relative to the cover portion (B) about a pivot axis to assume a use position (figure 3) wherein the probe (thermometer) is removed from a stowed position inside the cover portion (B);

wherein the cover portion (B) includes a front and rear wall integrally coupled together and formed to define a cut-out (hollow space in B), the thermometer portion (A) being pivotally movable relative to the cover portion (B) between a use position (e.g., figure 3) where the probe of the thermometer portion extends away from the cover portion, and a stowed position where the probe of the thermometer portion is received within the cut-out (e.g., figure 1).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tatum in view of U.S. Patent Des. 298,219 to Muller.

Tatum discloses a thermometer assembly comprising:

a cover portion (B); and

a thermometer portion (A) pivotably and slidably coupled to the cover portion (B) and formed to include a probe and a housing coupled to the probe, i.e., formed to include a mercury thermometer (not shown), which comprise a bulb [probe] and a housing [mercury stem], the thermometer portion (A) being pivotably moveable relative to the cover portion about a pivot axis and slidably movable relative to the cover portion along a vertical axis extending along the

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probe between a use position (figure 3) and a stowed position (figure 1), the cover portion (B) including a cavity (between ears e) formed to receive at least a portion of the housing of the thermometer portion in the use and stowed positions and a cut-out (hollow interior) formed to receive the probe of the thermometer portion in the stowed position (e.g., when the probe is stored upright in the thermometer portion).

Tatum does not disclose the thermometer portion being formed to include a probe coupled to a housing having a display and power button, i.e., formed to include a digital thermometer.

Muller discloses a thermometer casing formed to include a probe coupled to a housing having a display and power button, i.e., formed to include a digital thermometer. Muller teaches that it is desirable to provide a casing for a digital thermometer in order to store the digital thermometer when not in use.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the assembly disclosed by Tatum by forming the thermometer and cover portion so that they can house a digital thermometer, since Muller teaches that it is desirable to house digital thermometers in a casing when not in use.

***Allowable Subject Matter***

8. Claims 2-15, 17-20, 22, 24, 26, 27, 29, and 30 are allowed.
9. Claims 25 and 28 would be allowable if amended to overcome the objections set forth in this Office action.

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10. The following is an examiner's statement of reasons for allowance:

The prior art of record does not disclose or suggest the following in combination with the remaining limitations of the claims:

An infant thermometer assembly:

comprising a cover portion having a body, a first arm appended to the body, a second arm appended to the body, wherein the first and the second arms of the body are spaced apart from each other to define the cavity of the cover portion, and are coupled to the housing of the thermometer portion (see claim 2).

wherein the thermometer portion includes a guide tab coupled to the housing and the cover portion includes a guide slot formed therein to receive the guide tab in the use position (see claim 7).

wherein the thermometer portion includes a locking lug coupled to the housing, and the cover portion includes a slot formed to receive a portion of the locking lug therethrough (see claim 12).

wherein the mounting means includes a locking lug coupled to the housing and the cover portion includes a slot formed to receive a portion of the locking lug therethrough (see claim 17).

wherein the thermometer portion includes a first and second guide tab coupled to the housing, and the cover portion includes first and second guide slots and first and second notches for receiving a portion of the first and second guide tabs (see claim 22).

wherein the probe carrier includes a first and second locking lug extending outwardly into the lug-receiving slots formed in the first and second arms, and the thermometer portion is free to pivot to allow the probe to be withdrawn from the probe receiver formed in the body of



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the cover portion and rotated through an angle of 180° to assume a position apart from the probe receiver (see claim 24).

11. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patent discloses a sliding or pivoting temperature sensor and housing:

German Patent 3838620 to Froebel

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mirellys Jagan whose telephone number is 571-272-2247. The examiner can normally be reached on Monday-Friday from 10AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ  
October 14, 2004

  
**Diego Gutierrez**  
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